



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 28, 1995

Mr. Marvin B. Sallop
Executive Director
Texas School for the Deaf
P.O. Box 3538
Austin, Texas 78764

OR95-904

Dear Mr. Sallop:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32948.

The Texas School for the Deaf (the "school") received an open records request for, among other things, records pertaining to a particular school employee's "mishandling" of students. You have submitted to this office as responsive to the request records that you contend are confidential under section 34.08 of the Family Code. You also contend that one additional record constitutes a "student record" that must be withheld from the public in accordance with the Family Educational Rights and Privacy Act of 1974 ("FERPA"). 20 U.S.C. § 1232g.

Chapter 34 of the Family Code concerns, among other things, reports of child abuse to state agencies that operate facilities in which children are located. Fam. Code § 34.22. Clearly, the school constitutes such a facility. Section 34.08(a) of the Family Code provides:

Except as provided in Subsections (b) and (c) of this section, the reports, records, and working papers used or developed in an investigation made under this chapter are confidential and may be disclosed only for purposes consistent with the purposes of this code *under regulations adopted by the investigating agency.* (Emphasis added.)

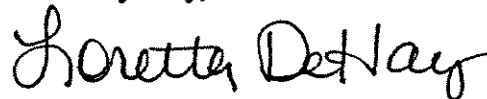
Subsections (b) and (c) relate to the disclosure of records concerning an investigation of an adopted child to the adoptive parents, prospective adoptive parents, or to the child upon reaching adulthood. Neither subsection is applicable to the current request.

We have examined the records you have numbered 3.5 through 3.22 and agree that these records constitute information pertaining to investigations of alleged child abuse. Further, you have provided this office with a copy of the school's policy regarding investigations of child abuse, which contains no provision authorizing the release of such information to the public. Accordingly, we conclude that the documents numbered 3.5 through 3.22 must be withheld in their entirety pursuant to section 34.08 of the Family Code.

We also agree that the document numbered 3.23 is a "education record" for purposes of FERPA. See 20 U.S.C. § 1232g(a)(4)(A) ("education records" means those records that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution). However, information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982); 206 (1978). In this instance, we believe that the student's identity would be adequately protected by the redaction of the student's name: no other information contained in document 3.23 tends to reveal the student's identity. The school therefore must release this record with the student's name redacted.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Government Section

LRD/RWP/rho

Ref.: ID# 32948

Enclosures: Submitted documents

cc: Mr. John Cernocek
1100 Graham #1111
Tomball, Texas 77375-6466
(w/o enclosures)